IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6988 OF 2002

Smt.Kamalibai Babu Bhasma .. Petitioner

Versus

Special Land Acquisition

Officer and Anr. .. Respondents

Mr.G.H.Keluskar for petitioner

Mr.A.H.Palekar, A.G.P. for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : DECEMBER 16, 2004.

P.C.

. Rule. By consent made returnable forthwith. Heard Advocates.

2. Petitioner filed an application under section 28A of the Land Acquisition Act, 1894 before Civil Judge, Senior Division Panvel. Respondent No.2 applied for impleading himself as party to these proceedings. The matter was placed on several occasions after petitioner raised her objections and ultimately the application was rejected. Respondent No.2 applied for review of this order and the Civil Judge, Panvel after hearing both sides allowed review application Exh.23 and recalled his earlier order. The result of the recall is that respondent No.2 would now be impleaded in the proceedings instituted by the petitioner. Petitioner is aggrieved and dissatisfied with the order passed by the trial court below Exh.23 decided on August 20, 2002. In other words, after recalling the earlier order respondent No.2 stands impleaded in the proceedings.

3. Petitioner had filed C.R.A. to challenge

the impugned order but after the amendments to the CPC with effect from 1st July 2002 revision application was withdrawn with liberty to file instant petition. When notice was issued of the instant petition by this Court and proceedings before the trial court were stayed, a short returnable date was given and it was indicated that the matter would be disposed of finally at the admission stage. Despite service, respondent No.2 is absent.

4. In respect of same parties, but distinct properties, the issue had come to this Court in W.P. No.6989 of 2002. This Court (D.B.Bhosale, J) delivered a judgement on 14th November 2003 holding that the order passed by the trial court on identical lines is unsustainable in the light of clear provisions of law and decision of this Court in the case of Rajaram Gajanan Ganal and Ors. Vs. Special Land Acquisition Officer and Anr., reported in 2001 (2) Mh.L.J. 279. Issue

in this petition is therefore covered by this order. In the result, rule is made absolute in terms of prayer clause (b) with no order as to cost. Land Acquisition Reference No.30 of 1996 to proceed on merits and in accordance with law. All concerned to act on an authenticated copy of this order.

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